THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.113 OF 2002

DATED:1.9.2005

Between:

Bidevathamma Fishermen Cooperative Society Limited

Rep by its President

K.Ravi Reddy, R/o.Kondarampuram Village

Srikalahasti Mandal, Chittoor District.

…Petitioner

And

The Government of Andhra Pradesh,

Rep. by its Principal Secretary,

Department of Animal Husbandry and Fisheries,

Hyderabad and others

…Respondents

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ORDER:

Bidevathamma Fishermen Cooperative Society Limtied, Kondandarampruam Village in Chittoor District, assails the Memo dt.28.12.2001 issued by first respondent whereby and wherunder purporting to exercise their powers under Section 77 of the A.P. Cooperative Societies Act, 1964 (for short, the Act) the Government set aside the proceedings of Assistant Director of Fisheries, fourth respondent herein, registering petitioner society under the provisions of the Act.

The fact of the matter is not much in dispute. The members of the petitioner society,

who are thirty in number, are eking out their livelihood on fishing. They made an application to fourth respondent, who is functional Registrar of Fishermen Cooperative Societies, for registration of cooperative society. They alleged that the Assistant Director conducted skill test as required under by-law 4-A of the by-laws of the society and identified twenty seven persons as skilled fishermen. Accordingly, he granted provisional registration on 29.11.1999. The Sarpanch of the Gram Panchayat of the village gave a representation to third respondent on 11.1.2001 alleging that petitioner society was provisionally registered by fourth respondent without following the procedure. According to the petitioner, third respondent conducted enquiry and disposed of representation of fifth respondent. It is also alleged that thereafter, the fourth respondent granted registration on 21.4.2000. When the petitioner was not granted lease on preferential basis for fishing in the local tank, they filed Writ Petition No.24944 of 2000. This Court directed the respondents to consider and grant lease in favour of the society as per G.O.Ms.No.776. Accordingly, the District Collector granted lease of fishing rights for the year 2000-2001.

The fifth respondent herein approached the Government and filed a revision petition on 24.5.2001 under Section 77 of the Act. The petitioner herein raised two objections; that Sarpanch of Gram Panchayat has no *locus standi* to question the registration granted to petitioner society under Section 77 of the Act and that the revision petition filed by the Sarpanch is barred by limitation. The Government relied on the report of the Joint Director of Fisheries and came to the conclusion that fourth respondent committed irregularities in recognizing the petitioner society. The Joint Director in his report pointed out that the Assistant Director did not give vide publicity in all the villages situated around Thondamanadu tank, that the venue for conducting skill test was changed without any publicity and that the Assistant Director has taken hasty decision for final registration of the society and accordingly revision petition was allowed setting aside the proceedings of the Assistant Director registering the petitioner society.

In this Writ Petition, learned counsel for the petitioner submits that the revision petition filed by Sarpanch of the village Gram Panchayat is not maintainable as Sarpanch has no *locus standi*. Secondly he would urge that the revision petition is barred by limitation. **Per contra,** learned Assistant Government Pleader for respondents 1 to 4 and learned counsel for fifth respondent contend that the petitioner society was formed by persons who do not belong to fishermen community, that the Assistant Director committed a number of irregularities in registering the society ignoring the instructions issued by Commissioner of Fisheries and therefore the impugned orders are justified.

Section 77 of the Act confers power on the Registrar and the Government either *suo motu* or on application to call for and examine the records of any subordinate officers as to correctness, legality or propriety of any order/decision. When the Government or Registrar exercises *suo motu* revisional powers, the provision does not prescribe any limitation. The Courts, it is now well settled, have interpreted such provision as permitting the authority to exercise *suo motu* powers within reasonable time. Insofar as Section 77 of the Act is concerned, whenever *suo motu* powers are exercised on

an application made to them, the law prescribes that such application should be preferred within ninety days from the date on which proceeding, decision or order was communicated to the applicant. That is made clear by proviso to sub-section (1) of Section 77. For invoking Section 77 of the Act a person should be a person to whom a decision or order is communicated by subordinate officers. There is no law requiring the Assistant Director of Fisheries to communicate proceedings either registering society provisionally or permanently to the Sarpanch. Be that as it is, in this case, the Sarpanch preferred revision petition before the Government on 24.5.2001 almost one year after grant of permanent registration to petitioner, by the Assistant Director. In paragraph 2 of the impugned Memo of the Government, the submission of the petitioner society that Sarpanch has no *locus standi* is mentioned, but it is not even adverted to subsequently, nor a decision is made. The ground of limitation raised by the society before the Government was also not considered. In the opinion of this Court, these two grounds are important to be considered for exercising of power under Section 77 of the Act in a proper manner. Therefore, this Court is of considered opinion that the impugned order should be set aside and the matter should be remitted back to the Government for fresh consideration.

The Writ Petition is accordingly allowed and the impugned Memo of the Government is set aside and the matter is remitted back to the Government for fresh consideration with regard to two points raised by the petitioner on the question of *locus standi* of Sarpanch and on the question of limitation as well as on merits of the case. This exercise may be done after giving notice to petitioner and other aggrieved persons within a period of eight weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

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(V.V.S.RAO, J)

1.9.2005

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